

### REMARKS

In response to the Office Action dated August 26, 2005, Applicants respectfully request reconsideration based on the following remarks. Applicants respectfully submit that the claims as presented are in condition for allowance.

Claims 1-20 were rejected under 35 U.S.C. § 103 as being unpatentable over Ostromek in view of LTC6902. This rejection is traversed for the following reasons.

Claim 1 recites "a frequency generator generating a base signal having a base frequency; a modulator for spread-spectrum modulating said base frequency of said base signal to generate a modulated signal; and a gating circuit coupled to said modulator, said gating circuit generating a gating signal in response to said modulated signal." The Examiner relies on Ostromek for disclosing the basic construction of a night vision system, and acknowledges that Ostromek fails to teach spread spectrum modulating a base signal having a base frequency to generate a gating signal. The Examiner relies on LTC6902 for disclosing the spread spectrum gating and concludes that "it would have been obvious to one of ordinary skill in the art to provide the LTC6902 oscillator to the device of Ostromek et al. to drive the power supply for the purpose of decreasing the peak electromagnetic radiation level and improving electromagnetic compatibility performance." Applicants respectfully disagree that it would have been obvious to include the LTC6902 oscillator in Ostromek.

The LTC6902 oscillator spread spectrum modulates a fixed based frequency. As described in LTC6902, the base frequency is set by a resistor Rset. The use of a fixed base frequency is inconsistent with the teachings of Ostromek. Ostromek measures light 32 and generates a gating signal that is dependent on, and varies with, the sensed light 32. This allows the system to respond to changes in lighting conditions and adjust the gating signal (column 1, lines 50-52). Using a fixed based frequency as taught in LTC6902 would not allow Ostromek to adjust the gating signal to changes in lighting.

Further, Ostromek teaches against using a fixed frequency for the gating signal. Column 3, lines 5-17 read as follows.

An image intensifier module with a fixed gating frequency may avoid interference with ambient light at some frequencies  $f_a$ , but not at other frequencies  $f_a$ . This poses a problem because the frequency of ambient light

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may change with respect to time or location. Additionally, ambient light may include several oscillatory components at different frequencies or may not follow any regular pattern. Unlike systems with fixed gating frequencies, gating module 10 detects light 32 and adjusts the gating frequency, pulse width, and phase of a gating signal, while maintaining proper sensor exposure, in response to the detected light 32 in order to avoid interference with light 32. Accordingly, system 101 reduces interference, thus improving image 38.

This section of Ostromek clearly teaches that fixed frequency gating, as taught by LTC6902, is not desirable. It is well settled that if proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. MPEP §2143.01. Clearly, using fixed frequency gating in Ostromek would render the system of Ostromek unsatisfactory for the purpose of adjusting the gating frequency in response to changes in light. Further, Ostromek teaches against such fixed frequency gating. In view of the foregoing, Applicants submit that it would not have been obvious to modify Ostromek with the teachings of LTC6902. Thus, the Examiner has failed to establish a *prima facie* case of obviousness.

For at least the above reasons, claim 1 is patentable over Ostromek in view of LTC6902. Claims 2-8 variously depend from claim 1 and are patentable over Ostromek in view of LTC6902 for at least the reasons advanced with reference to claim 1.

Claims 9-20 were also rejected under 35 U.S.C. § 103 as being unpatentable over Ostromek in view of LTC6902. As discussed above with reference to claim 1, there is insufficient motivation to combine Ostromek and LTC6902 as proposed by the Examiner. Accordingly, claim 9-20 are patentable over Ostromek in view of LTC6902 for at least the reasons advanced with reference to claim 1.

In view of the foregoing remarks, Applicants submit that the above-identified application is now in condition for allowance. Early notification to this effect is respectfully requested.

If there are any charges with respect to this response or otherwise, please charge them to Deposit Account 06-1130.

Respectfully submitted,

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